

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-366-A - ORDER NO. 2004-572
NOVEMBER 18, 2004

IN RE: Application of Chem-Nuclear Systems, LLC)
for Approval of Allowable Costs.)
)
)

ORDER
DENYING
PETITIONS

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petitions regarding Order No. 2004-349, filed by the South Carolina Budget and Control Board (BCB) and the Atlantic Compact Commission (ACC). BCB filed a Petition for Reconsideration or Correction of Clerical Error. ACC filed a Memo in Support of the BCB Petition, however we will consider it a separate Petition for Reconsideration. In addition, Chem-Nuclear Systems, LLC (Chem-Nuclear or the Company) filed a letter in reply to the two Petitions.

BCB notes that, in the Commission Directive of June 2, 2004, the Commission decided as follows:

With regard to the skid, the Commission finds that there is insufficient evidence in the record to support a 50-50 split of the \$382,495 cost of the skid. The record does not allow the Commission to determine what portion of the total cost of the skid is to be allocated to Chem-Nuclear Systems. Lacking this supporting evidence, the Commission has no choice but to deny its inclusion as a cost.

BCB then alleges that the Order Identifying Allowable Costs dated July 23, 2004, entered a finding and conclusion which differed from the Commission's directive set out above, and instead adopted the Staff's proposal, which allowed costs based on the

relationship of revenues from the project attributed to transportation and disposal. BCB requests that this Commission amend or correct Order No. 2004-349 to conform to the directive, which, according to BCB, denied the cost of the skid.

By its own filing, ACC joined in the BCB Petition and also alleges non-conformity of the Commission Order with the issued Directive as stated by BCB.

Chem-Nuclear's Reply to the Petitions requests that we deny the requested relief of the Petitioners. First, Chem-Nuclear states that the Commission Order actually represents the Commission's final, enforceable decision, not the Commission Directive. Consequently, Chem-Nuclear alleges that the directive should actually conform to the Order, not vice versa. Second, Chem-Nuclear states that Order No. 2004-349 contains a detailed discussion of the evidence, describing the differences between the evidence presented by Chem-Nuclear and the Commission Staff concerning the proper "allowable cost" for the skid used in transportation and disposal of the Mine Yankee Reactor Pressure Vessel. Further, the Company notes that the issue and evidence is further discussed in the Commission's Conclusion of Law No. 3 at pp. 17-19 of the Order, and that no violation would result from failure to correct said Order.

We deny the Petitions. While this Commission realizes that the previous directive could be ambiguous, Order No. 2004-349 correctly captured this Commission's intent.

Paragraph 1 of the Directive stated that "The Commission specifically grants Staff's adjustment to direct materials in the amount of \$26,354 and Staff's adjustment to direct labor." The \$26,354 adjustment to direct materials proposed by the Staff was the Staff's adjustment to change the allocation of the cost of the skid from the 50/50 split

proposed by Chem-Nuclear to the Staff proposed allocation, based on the relationship of revenues attributable to transportation operations or to disposal operations.

While Paragraph 2 of the directive did state that “the record does not allow the Commission to determine what portion of the total cost of the skid is attributable to Chem-Nuclear” and concludes that the Commission has no choice but to deny the skid’s inclusion as a cost, those comments were meant to explain why the first sentence of that paragraph which stated that the “Commission finds there is insufficient evidence in the record to support the 50/50 split of the cost of the skid.” Those two sentences from paragraph 2 were not intended to overrule the explicit finding in paragraph 1 which approved the Staff’s adjustment to the cost of the skid.

It was the Commission’s intent in the original directive to allow some recovery in costs for the skid. The Commission did not find sufficient justification to adopt the 50-50 split as proposed by Chem-Nuclear, but did find the allocation method suggested by the Staff to be persuasive. It was the Commission’s intent to allow for some recovery of the skid because, clearly, Chem-Nuclear would have had some costs to stabilize the vessel had the skid not been used. A reasonable conclusion of economics is that it was less expensive to use the one skid than to build a skid for transportation and another for disposal; thus, the rationale for inclusion of a portion of the cost.

Even though we deny the Petitions herein, we believe that this Order explains these matters in the directive to correct any ambiguity from the original directive as raised by the Petitions for Reconsideration.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)